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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JENNIE QUAN, individually and as  
successor in interest to BENJAMIN  
CHIN, deceased,

Plaintiffs,

vs.

COUNTY OF LOS ANGELES;  
MARISOL BARAJAS; HECTOR  
VAZQUEZ; and DOES 3-10, inclusive,

Defendants.

Case No. 2:24-cv-04805-MCS-KS

*Assigned to:*

Hon Mark C. Scarsi  
Hon. Mag. Judge Karen L. Stevenson

**PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' MOTION IN LIMINE  
NO. 1 TO EXCLUDE OR LIMIT THE  
OPINIONS OF BENNET OMALU,  
MD**

Final Pretrial Conference:

Date: January 26, 2026

Time: 2:00 p.m.

Crtrm: 7C

Trial:

Date: February 10, 2026

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This civil rights case arises out of the officer-involved shooting death of  
4 Benjamin Chin (“Decedent”) by Los Angeles County Sheriff’s Department Deputies  
5 Marisol Barajas and Hector Vazquez on June 19, 2023. Jennie Quan, Decedent’s  
6 mother and the plaintiff in this case, brings claims for Fourth Amendment –  
7 Excessive Force (42 U.S.C. § 1983), state law battery, state law negligence, and  
8 violation of California Civil Code section 52.1 (Bane Act). Under Plaintiff’s Fourth  
9 Amendment Excessive Force claim, Plaintiff seeks survival damages, including pre-  
10 death pain and suffering and loss of life. *See Valenzuela v. City of Anaheim*, 6 F.4th  
11 1098, 1102–03 (9th Cir. 2021); *Chaudhry v. City of Los Angeles*, 751 F.3d 1096,  
12 1105 (9th Cir. 2014). Plaintiff further seeks survival damages, including pre-death  
13 pain and suffering, under Plaintiff’s state law claims. *See* Cal. Civ. Proc. Code §  
14 377.34. Defendants have moved to exclude or limit Plaintiff’s forensic pathology  
15 expert, Dr. Bennet Omalu, from offering his opinions at trial. For the reasons  
16 discussed herein, Plaintiff opposes Defendants’ motion in its entirety.

17 **II. ARGUMENT**

18 **A. Dr. Omalu’s Statement Regarding the Delay in Medical Care is**  
19 **Admissible**

20 Defendants misapprehend Dr. Omalu’s statement regarding the delay in  
21 medical care to Decedent. Dr. Omalu’s statement regarding the delay in medical care  
22 was simply an observation from the video evidence—one of which is apparent and  
23 uncontroverted—from which he partly bases his opinions regarding Decedent’s pain  
24 and suffering. *See A.B. v. Cnty. of San Diego*, No. 18CV1541-MMA-LL, 2020 WL  
25 4431982, at \*2 (S.D. Cal. July 31, 2020) (allowing defendants’ police practices  
26 expert to testify to what he observed in the videos because those formed the basis for  
27 his opinions as to whether the officers acted appropriately). Dr. Omalu is not  
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1 attempting to opine on the propriety of the delay or give an opinion as to whether the  
2 delay is a basis for liability under Plaintiff's claims. He is simply observing that from  
3 the video evidence, there appears to be a delay of a few minutes for medical  
4 treatment to Decedent and that, based on his experience and expertise, Decedent  
5 experienced pain and suffering from that delay.

6 **B. Dr. Omalu's Opinions Regarding The Trajectory of Decedent's**  
7 **Gunshot Wounds are Relevant and Admissible**

8 Dr. Omalu is qualified to render opinions regarding the trajectory of  
9 Decedent's gunshot wounds and which wounds are entrance or exit wounds. Dr.  
10 Omalu is a forensic pathologist who has "been involved in over 15,000 death and  
11 injury investigations" and has "personally conducted and performed over 13,000  
12 autopsies and death investigations." (Ex. A to Le Decl., Omalu Report at 2). He has  
13 also "perform[ed] trauma pattern analysis in both living patients and deceased  
14 patients to determine causes and mechanisms of sustenance of injuries and death."  
15 (*Id.*). Further, he has "consulted and [been] retained as an expert witness in 2,000-  
16 3,000 cases involving all types of medico-legal cases across all jurisdictionsn in the  
17 United States." (*Id.*). His work as a forensic pathologist and expert consultant  
18 requires the knowledge of ballistics and gunshot evidence, subjects which other  
19 courts have permitted forensic pathologists, including Dr. Omalu, to opine. *See Hyer*  
20 *v. City & Cnty. of Honolulu*, 118 F.4th 1044, 1057–58, 1058-59 (9th Cir. 2024)  
21 (acknowledging that forensic pathologists "commonly testify" as to decedent's body  
22 positioning in police excessive force shooting cases and that the forensic pathologist  
23 qualified to render opinions regarding the locations and positions of the individuals  
24 involved in the shooting); *Barber v. Cnty. of San Bernardino*, No. EDCV 22-00625-  
25 KK-DTBX, 2026 WL 76305, at \*6 (C.D. Cal. Jan. 7, 2026); *Ibarra v. Lee*, No. 4:20-  
26 CV-598-JDR-SH, 2025 WL 2817639, at \*2 (N.D. Okla. Sept. 30, 2025) (collecting  
27 cases); *Murillo v. City of Los Angeles*, No. CV218738FMOAGR, 2023 WL

1 9420539, at \*2 (C.D. Cal. Aug. 21, 2023); *Barillas v. City of Los Angeles*, No. CV  
2 18-08740-CJC (ASX), 2021 WL 4434977, at \*13 (C.D. Cal. Apr. 12, 2021).

3 Accordingly, Dr. Omalu is qualified to offer opinions regarding the trajectory and  
4 entrance and exit wounds of Decedent's gunshot wounds.

5 Moreover, Dr. Omalu's testimony regarding gunshot trajectory is relevant and  
6 not cumulative of other evidence. Defendants contend that the autopsy report already  
7 lists the trajectory of the gunshot wounds, but Dr. Omalu's opinions connect the  
8 trajectory to the likely body positioning of the Decedent at the time he sustained the  
9 gunshot wounds, based on trajectory and the appearance of entrance/exit wounds. His  
10 opinions are relevant in the context of this case because, despite there being no  
11 dispute as to trajectory and the appearance of entrance and exit gunshot wounds,  
12 there remains a dispute as to Decedent's body positioning at the time he sustained the  
13 gunshot wounds. Deputy Barajas contends that she shot Decedent in part because he  
14 was advancing towards her. Deputy Vazquez contends that at the time of his second  
15 shot, Decedent had turned in Deputy Vazquez's direction and was facing Deputy  
16 Vazquez, such that the front of Decedent's upper body was center-mass to Deputy  
17 Vazquez. Additionally, Plaintiff has the burden to of proof that the defendant  
18 deputies caused injury, harm, or death to the Decedent. Since there are two shooters,  
19 Plaintiff must show that both shooters were in part responsible for Decedent's injury,  
20 harm, or death.

21 Dr. Omalu's opines that the shooter who fired the bullet that caused injury to  
22 Decedent's front abdomen/pelvis was not directly in front of or directly perpendicular  
23 to Decedent, but rather was located to the left of the front of Decedent and Decedent  
24 was not walking directly towards the shooter at the time the shot was sustained. (Ex.  
25 A to Le Decl., Omalu Report at 11). This helps Plaintiff establish that Deputy Barajas  
26 fired the shot that struck Decedent's abdomen/pelvis and that Decedent was not  
27 advancing towards Deputy Barajas at the time of the shot. Dr. Omalu further opines  
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1 that the shooter who fired the bullet that entered Decedent's back was located behind  
2 Decedent and to his left. (*Id.*). Dr. Omalu also opines that Decedent was not facing  
3 the shooooter and was bvent over in some manner or beginnign to fall to the ground  
4 when he sustained the gunshot wound to the back. (*Id.*) This helps Plaintiff establish  
5 that Deputy Vazquez fired the shot that struck Decedent in the back and that  
6 Decedent had not turned to face Deputy Vazquez at the time of the shot. Accordingly,  
7 Dr. Omalu's opinions regarding bullet trajectory and body positioning are relevant  
8 and admissible.

9 **C. Dr. Omalu's Opinions Regarding Decedent's Pre-Death Pain and**  
10 **Suffering are Relevant and Admissible**

11 Defendants arguments for exluding Dr. Omalu's opinions regarding  
12 Decedent's pain and suffering (that Dr. Omalu's opinions are unreliable because he  
13 fails to provide a sufficient explanation for his findings and fails to consider certain  
14 mitigating factors, that his opinions have no probative value because videos exists of  
15 Decedent after the shooting, and that his opinions regarding Decedent's pain and  
16 suffering before the shooting is unreliable) are unpersuasive.

17 First, Dr. Omalu has provided sufficient explanation and reasoning that form  
18 the bases for his opinions regarding Decedent's pre-death pain and suffering. Dr.  
19 Omalu states in his report that "[i]t is a generally accepted principle and common  
20 knwoldge in medicine and forensic pathology that specific traumatic events generate  
21 predictable, reproducible, and specific patterns of trauma and injuries...[including]  
22 the patterns of traumas/injuries generated by blunt force impacts, gunshots, firearms  
23 and ballistic weapons..." (Ex. A to Le Decl., Omalu Report at 12). Further, he goes  
24 on to explain the patho-physiology of conscious pain and suffering, stating that  
25 conscious pain and suffering, initiated by nerve endings in the soft tissues and organs,  
26 can be elicited by three types of stimuli: mechanical, thermal, and chemical and noted  
27 that a person can experience both mechanical and chemical pain stimuli from gunshot  
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1 wounds. (*Id.* at 12-15). He applies these principles to Decedent’s pain and suffering  
2 by observing that when Decedent encountered the deputies, he was not experiencing  
3 any neurological disease or drug intoxication and that he suffered blunt force trauma  
4 and gunshot wounds that caused physical and mechanical somatic pain which was  
5 transmitted to the brain to cause conscious somatic pain and suffering, which in turn  
6 solicited biochemical pain and suffering. (*Id.* at 15-19). He further notes that  
7 Decedent did not die immediately as a result of the gunshot wounds, that he can be  
8 seen moving and responding to officers when they approached him after the shooting,  
9 and thus Decedent continued to experience pain and suffering for a significant  
10 amount of time as “the human body continues to experience debilitating trauma-  
11 induced and physiologic chemical pain and suffering until there is a complete  
12 cessation of all bodily functions and death.” (*Id.* at 17-19). Courts have found such  
13 detailed discussion and explanation of the concept of pain and suffering and how it  
14 relates to gunshot wounds or blunt force trauma to be sufficient to support Dr.  
15 Omalu’s opinions on pain and suffering. *See Ibarra*, 2025 WL 2817639, at \*5;  
16 *Murillo*, 2023 WL 9420539, at \*3; *A.B.*, 2020 WL 4430971, at \*7.

17 To the extent that Dr. Omalu fails to quantify measurements of pain and  
18 suffering, “[t]hat Dr. Omalu cannot testify about decedent’s pain and suffering with  
19 exact precision does not render his testimony inadmissible” and the lack of precision  
20 goes to the weight of Dr. Omalu’s testimony rather than its admissibility. *Murillo*,  
21 2023 WL 9420539, at \*3 (citing *In re Toyota Motor Corp. Unintended Acceleration*  
22 *Mktg., Sales Pracs., & Prod. Liab. Litig.*, 978 F.Supp.2d 1053, 1080 (C.D. Cal.  
23 2013)); *Ibarra*, 2025 WL 2817639, at \*5. Additionally, to the extent that Defendants  
24 contend Dr. Omalu fails to consider factors that may have mitigated Decedent’s pain  
25 and suffering, that goes to the weight of the Dr. Omalu’s opinions, not its  
26 admissibility. *See Barber*, 2026 WL 76305, at \*6 (“To the extent Defendants argue  
27 Dr. Omalu’s testimony is not credible or corroborated by the evidence, such concerns  
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1 go to the weight of the testimony, and therefore, are properly addressed by cross  
2 examination).

3       Moreover, Dr. Omalu's testimony is relevant and would be helpful to the trier  
4 of fact. Plaintiff seeks damages on behalf of Decedent for his pre-death pain and  
5 suffering under all of Plaintiff's claims. The extent of Decedent's pain and suffering  
6 and the range of time that Decedent experienced pain and suffering is directly  
7 relevant to the degree of force used, the extent of Decedent's injuries, and calculation  
8 of damages, even though there exist videos capturing Decedent after the shooting.  
9 *See Barber*, 2026 WL 76305, at \*6 (Dr. Omalu's pain and suffering testimony  
10 "relevant to assist the jury in assessing the degree of force used and the extent of  
11 [p]laintiff's injuries" in a police shooting case, despite the plaintiff being available to  
12 testify on his subjective experience on the matter); *Murrillo*, 2023 WL 9420539, at  
13 \*2 (Dr. Omalu's pain and suffering testimony helpful to the jury to understand the  
14 extent of decedent's pain and suffering from the time he was shot until the time he  
15 died); *A.B.*, 2020 WL 4430971, at \*7 (Dr. Omalu's pain and suffering testimony  
16 informative to the degree of force used by defendants and extent of survival  
17 damages).

18       Lastly, Dr. Omalu's opinions regarding Decedent's pain and suffering before  
19 the shooting is sufficiently reliable. Dr. Omalu notes that there is no evidence that  
20 Decedent was suffering from neurological disease or drug intoxication at the time of  
21 the incident and thus, he had "the mental capacity and learned behavior to classify the  
22 presence of the police officer, their guns and weapons...the firing and explosive  
23 noises of the gun(s), and the bullets hitting him as imminent dangers and threats to  
24 his life." (Ex. A to Le Decl., Omalu Report at 15). His opinions on these matters are  
25 based on his expertise in forensic pathology, as he states, "This mental awareness of  
26 imminent danger initiated the nor-adrenergic and adrenergic biochemical neural  
27 responses of fear, right, and flight...[which] caused high levels of mental pain and  
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suffering.” (*Id.*). Such testimony regarding pain and suffering has been found to be admissible. *See A.B.*, 2020 WL 4430971, at \*8.

### III. CONCLUSION

For the foregoing reasons, the Court should deny Defendants' Motion in Limine to limit or exclude the the opinions of Dr. Omalu in its entirety.

Respectfully submitted,

DATED: January 12, 2026

LAW OFFICES OF DALE K. GALIPO

By \_\_\_\_\_ /s/ Hang D. Le

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Dale K. Galipo

Hang D. Le

Attorneys for Plaintiff